

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 22, "Controlling Pollution," and Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code.

The primary purpose of the rule making is to adopt new federal regulations affecting stationary internal combustion engines, gasoline distribution facilities and surface coating operations and also to amend the state air construction permitting requirements to better accommodate the new federal regulations. The proposed amendments adopt by reference additional, minor amendments to federal regulations.

Over the last year, the U.S. Environmental Protection Agency (EPA) finalized several new air quality regulations under two programs authorized by the federal Clean Air Act (CAA), the New Source Performance Standards (NSPS) program and the National Emission Standards for Hazardous Air Pollutants (NESHAP) program. These programs require new and existing facilities in a particular industry sector that construct and operate specific equipment to meet uniform standards for air pollutant emissions. The NSPS program typically addresses "criteria pollutants," such as fine particulate, sulfur dioxide (SO<sub>2</sub>), or nitrogen oxides (NO<sub>x</sub>), whereas the NESHAP program addresses hazardous air pollutants (HAP), sometimes called air toxics. NSPS and NESHAP requirements vary depending on the processes, activities or equipment being regulated, and whether the processes, activities or equipment are considered to be new or existing.

This rule making includes adoption of new federal NSPS and NESHAP requirements potentially impacting facilities or businesses that previously had few, if any, air quality requirements. Because of the potential impacts to small businesses and previously unregulated facilities, the Department is developing implementation strategies in conjunction with the proposed rule making. The strategies include cooperative efforts with the University of Northern Iowa – Iowa Air Emissions Assistance Program (UNI), Iowa Department of Economic Development (IDED), the Linn and Polk County local air quality programs, and other interested associations and organizations to provide outreach, education and compliance assistance to stakeholders.

The Department's outreach efforts began earlier this year, will continue during the rule-making process, and will go on after the new rules are adopted. The implementation strategies will depend on the specific rule requirements and on stakeholder needs, but will include informational meetings, workshops, training, fact sheets, guides, and Web-based compliance tools.

It is hoped that this rule making, in conjunction with the Department's outreach efforts, will result in reductions in air toxic and other air pollutant emissions while minimizing the regulatory burden to small businesses and other affected facilities.

Item 1 amends paragraph 22.1(2)"r," the construction permit exemption for internal combustion engines with a brake horsepower rating of less than 400. The Department is amending this exemption because of the new NSPS and NESHAP requirements for stationary internal combustion engines. At the time this exemption was first adopted in the mid-1990s, there were no federal air quality requirements applicable to these smaller engines. The new NSPS and NESHAP regulations for engines are rather complex and lengthy and require all sizes of new, modified and reconstructed stationary internal combustion engines to meet certain emissions requirements. To address federal changes, the Department is amending the construction permit exemption to require submittal of a registration

certifying NSPS and NESHAP compliance prior to installation of the engine. The registration form will provide the owners and operators of affected facilities a series of questions to ensure that the engine they order and install complies with the NSPS and NESHAP, while still allowing the owner or operator to be exempt from the requirement to obtain a construction permit. The registration will also assist the Department air quality and field office staff in ensuring that affected facilities are in compliance.

Item 2 amends subrule 22.8(1), the permit by rule for spray booths (PBR). The Department is amending the PBR provisions to reflect new NESHAP requirements for surface coating operations. At the time the PBR was first adopted, small spray operations were not subject to any federal air quality regulations. Under new NESHAP requirements, the owner or operator of any size of facility that spray applies materials containing any of the “target HAP” specified under the NESHAP must comply with numerous requirements. Additionally, owners and operators that spray coat motor vehicles and mobile equipment and choose not to use materials containing the “target HAP” must still petition for an exemption from the NESHAP requirements.

Currently, owners and operators of facilities that spray apply three gallons or less of materials per day are eligible to use the PBR. The owners or operators of PBR-eligible facilities simply complete a notification letter certifying that they meet the PBR requirements. To accommodate the new federal requirements, the Department is amending the PBR requirements and the Department’s accompanying form to require that an owner or operator certify that the facility is in compliance with or otherwise exempt from the NESHAP. The revised PBR form will provide owners and operators a series of questions that will assist them in complying with the NESHAP. Owners and operators of existing facilities that choose to continue using the target HAP will need to reapply for the PBR to certify compliance prior to the NESHAP compliance date. The proposed amendment to subrule 22.8(1) will assist the Department air quality and field office staff in ensuring NESHAP compliance, while still allowing smaller spray operations to use a streamlined permit.

Item 3 amends the introductory paragraph of subrule 23.1(2), the provisions adopting by reference the federal New Source Performance Standards (NSPS) contained in 40 CFR Part 60. The specific NSPS requirements being adopted are described in Item 4. EPA also took final action regarding an existing NSPS for equipment leaks of volatile organic compounds (VOC) in the synthetic organic chemicals manufacturing industry (SOCMI) and at petroleum refineries. EPA extended the stay of certain compliance requirements in the federal regulations.

Item 4 amends subrule 23.1(2) by adding new paragraph “zzz” to adopt the new NSPS for stationary spark ignition internal combustion engines (SI engines). SI engines are typically gasoline fueled, but also include engines with spark plugs that burn other fuels. SI engines are used at power plants, industrial sources and other facilities to generate electricity and to power pumps and compressors.

The new standards for SI engines will limit emissions of NO<sub>x</sub>, carbon monoxide (CO) and volatile organic compounds (VOC). The standards apply to larger SI engines (500 horsepower or greater) manufactured or ordered after July 1, 2007, to smaller SI engines manufactured or ordered after July 1, 2008, and to any size of SI engine modified or reconstructed after June 12, 2006. The NSPS phases in more stringent emissions requirements for engines with later manufacture dates. This NSPS is similar to the NSPS for stationary compression ignition (CI) engines. CI engines are typically diesel fueled. The Department adopted the NSPS for CI engines in February 2007.

Item 5 amends subrule 23.1(4), the emission standards for hazardous air pollutants for source categories, also known as National Emission Standards for Hazardous Air Pollutants or NESHAP, to adopt recent amendments that EPA made to 40 CFR Part 63. The specific NESHAP requirements being newly adopted or amended are described in Items 6 and 7. EPA also issued final amendments to existing NESHAP as follows:

- EPA issued amendments to the NESHAP for dry cleaning facilities (Subpart M). These amendments add clarity to, and better explanations of, the types of equipment included in the standards, the testing and monitoring requirements, and the reporting and record-keeping requirements. The amendments also correct typographical errors.

- EPA issued amendments to the NESHAP for semiconductor manufacturing (Subpart BBBBB). The Department is not aware of any facilities in Iowa currently subject to this NESHAP. These amendments

establish a new maximum achievable control technology floor level of control for existing and new combined process vent streams containing inorganic and organic HAP. The amendments also clarify the emission requirements for process vents by adding definitions for organic, inorganic, and combined process vent streams that contain both organic and inorganic HAP.

- EPA issued final amendments to the NESHAP for organic liquids distribution (non-gasoline) (Subpart EEEE). The amendments clarify, add flexibility to, and extend some of the compliance dates for storage tanks. The amendments also clarify the requirements for monitoring of storage tank pressure relief devices.

Item 6 amends paragraph 23.1(4)“cz,” the NESHAP for stationary reciprocating internal combustion engines (RICE) (Subpart ZZZZ). The amendments include standards to limit HAP from new and reconstructed engines located at area sources. The amendments also include standards to regulate HAP from smaller-size engines located at major sources.

Area sources are usually smaller commercial or industrial operations that typically release less HAP. Specifically, area sources have potential emissions less than 10 tpy (tons per year) of any single HAP and less than 25 tpy of any combination of HAP. Facilities that have potential HAP emissions greater than or equal to these levels are classified as major sources for HAP.

Generally, the RICE NESHAP requires new and reconstructed engines to meet the NSPS requirements for CI or SI engines. Existing engines located at area sources are not covered under these new regulations. However, EPA has published a notice in the Federal Register stating that EPA plans to issue standards in the future for existing engines located at area sources.

Item 7 amends subrule 23.1(4) by adopting new paragraphs “eb,” “ec,” and “eh.” This amendment adopts by reference three new NESHAP for new and existing area sources for the following source categories: (1) bulk gasoline facilities such as bulk plants, bulk terminals, and pipeline breakout stations (Subpart BBBB); (2) gasoline dispensing facilities (GDF) such as gas stations (Subpart CCCCC); and (3) paint stripping and miscellaneous surface coating operations (Subpart HHHHHH)

The area source NESHAP for bulk gasoline distribution will reduce VOC and HAP from gasoline vapors, including benzene emissions. Bulk terminals and pipeline breakout stations typically have higher monthly gasoline throughputs, and the owners and operators are required to control emissions through submerged filling at tanks and loading racks and controls on gasoline storage tanks. Owners and operators of larger terminals must capture and control gasoline vapors at the loading rack. The Department has received initial notification from approximately 20 existing facilities that will be subject to the NESHAP. Existing facilities will need to comply with the NESHAP by January 2011.

Bulk gasoline plants have lower monthly gasoline throughputs than terminals or breakout stations. Owners and operators of bulk plants are required to control gasoline vapors by using submerged filling at tanks and loading racks. The Department estimates that there may be 100 to 200 bulk plants affected by the NESHAP. However, owners and operators of bulk plants are already required to use submerged filling at tanks under existing state rules for underground storage tanks (UST) and for flammable liquids. The Department is working with the Petroleum Marketers and Convenience Stores of Iowa (PMCI), EPA and industry consultants to assist affected facilities with the new NESHAP requirements. The Department met with PMCI and other bulk plant stakeholders on August 21, 2008, and plans to continue working closely with stakeholders on outreach and compliance.

The second area source NESHAP being adopted by reference affects gasoline dispensing facilities (GDF) such as gas stations. Like the NESHAP for bulk facilities, this NESHAP will reduce VOC and HAP, including benzene emissions, from gasoline vapors. These standards apply to gasoline cargo tanks (trucks) and each storage tank. The NESHAP does not apply to equipment, such as gasoline pumps, used for refueling motor vehicles.

The gasoline dispensing NESHAP requirements are based on the actual, monthly throughput of gasoline at the facility. Under the NESHAP, owners and operators of smaller facilities are required to follow specified good management practices (GMP) to minimize gasoline evaporation. Owners and operators of medium-size facilities are required to follow GMP and use submerged filling of gasoline tanks. Owners and operators of large facilities (greater than or equal to 100,000 gallons/month

gasoline throughput) must employ GMP, submerged fill, and a vapor balance system during storage tank loadings.

Owners and operators of GDF are already required to implement GMP and submerged fill under existing administrative rules for UST and for flammable liquids. Vapor balancing is not required under existing administrative rules. The Department estimates that the owners and operators of approximately 250 large GDF will need to implement vapor balancing. However, approximately 50 of these facilities already use vapor balancing, and nearly all of the remaining 200 facilities will have until January 2011 to comply with the NESHAP requirements.

On June 25, 2008, EPA amended the NESHAP provisions affecting new, large GDF. EPA amended the pressure and vacuum vent valve cracking pressure and leak rate requirements for vapor balance systems used to control emissions from gasoline storage tanks at gasoline dispensing facilities. Newly constructed or reconstructed gasoline dispensing facilities must comply with the requirements of these amendments by the effective date of the EPA amendments (September 23, 2008), or upon start-up, whichever is later.

The Department has been corresponding regularly with EPA, PMCI and a number of affected facilities regarding the new requirements. The Department met with PMCI and other stakeholders on August 21, 2008, to formulate an outreach and compliance assistance strategy, and plans to continue working closely with stakeholders.

At the August 21, 2008, meeting, the Department learned that a number of new, large GDF stated that they would be unable to retrofit their equipment to comply with the NESHAP vapor balance system requirements by the September 23, 2008, compliance date. The Department is working with these facilities and EPA Region VII to issue compliance extensions, as appropriate, on a case-by-case basis.

The third area source NESHAP being adopted by reference affects paint stripping and certain surface coating operations, including spray coating of motor vehicles and mobile equipment. Currently, the Department is not aware of any Iowa facilities affected by the paint stripping provisions of this NESHAP.

The requirements for miscellaneous surface coating, which includes spray application of coatings to motor vehicles or mobile equipment, require owners and operators of facilities that spray apply coatings containing certain "target HAP" to control HAP through a variety of means. In brief, affected facility owners and operators must enclose spray areas, use high efficiency paint guns, capture 98 percent of overspray, capture paint and solvent when cleaning, and train and certify paint operators. Owners and operators of existing facilities will have until January 2011 to either switch to coatings that do not contain the "target HAP" or to comply with the NESHAP requirements. The Department estimates that 1,000 minor source facilities may be subject to the NESHAP, but that many of the facility owners and operators will choose to stop using the "target HAP" prior to the NESHAP compliance date.

The Department, in cooperation with UNI, IDED, and Linn and Polk County local air quality programs, hosted the first stakeholder meeting on July 15, 2008. The 30 participants received a presentation on the NESHAP and air permitting requirements, a draft guide and other outreach materials. The participants provided valuable input at this initial meeting, and the Department will be offering additional meetings and compliance assistance tools over the next 18 months.

This NESHAP will also impact approximately 15 Title V facilities that are currently considered to be area sources for HAP. The Department will be working directly with owners and operators of these facilities regarding the new NESHAP requirements.

Any person may make written suggestions or comments on the proposed amendments on or before December 9, 2008. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515)242-5094; or by electronic mail to [christine.paulson@dnr.iowa.gov](mailto:christine.paulson@dnr.iowa.gov).

A public hearing will be held on December 8, 2008, at 1 p.m. in the conference rooms at the Department's Air Quality Bureau office located at 7900 Hickman Road, Urbandale, Iowa. At the public hearing, comments on the proposed amendments may be submitted orally or in writing. All comments must be received no later than Tuesday, December 9, 2008.

Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact Christine Paulson at (515)242-5154 to advise of any specific needs.

These amendments are intended to implement Iowa Code section 455B.133.

The following amendments are proposed.

ITEM 1. Amend paragraph **22.1(2)“r”** as follows:

*r.* An internal combustion engine with a brake horsepower rating of less than 400 measured at the shaft, provided that the owner or operator meets all of the conditions in this paragraph. For the purposes of this exemption, the manufacturer’s nameplate ~~rating~~ rated capacity at full load shall be defined as the brake horsepower output at the shaft. ~~An internal combustion engine may be subject to the new source performance standards (NSPS) for stationary compression ignition internal combustion engines set forth in 40 CFR Part 60, Subpart III, as adopted by reference in 567—paragraph 23.1(2)“yyy.”~~ The owner or operator of an engine that was manufactured, ordered, modified or reconstructed after [insert effective date of these amendments] may use this exemption only if the owner or operator, prior to installing, modifying or reconstructing the engine, submits to the department a completed registration, on forms provided by the department, certifying that the engine is in compliance with the following federal regulations:

(1) New source performance standards (NSPS) for stationary compression ignition internal combustion engines (40 CFR Part 60, Subpart III); or

(2) New source performance standards (NSPS) for stationary spark ignition internal combustion engines (40 CFR Part 60, Subpart JJJJ); and

(3) National emission standards for hazardous air pollutants (NESHAP) for reciprocating internal combustion engines (40 CFR Part 63, Subpart ZZZZ).

Use of this exemption does not relieve an owner or operator from any obligation to comply with ~~the~~ NSPS or NESHAP requirements.

ITEM 2. Amend subrule 22.8(1) as follows:

**22.8(1) Permit by rule for spray booths.** Spray booths which comply with the requirements contained in this rule will be deemed to be in compliance with the requirements to obtain an air construction permit and an air operating permit. Spray booths which comply with this rule will be considered to have federally enforceable limits so that their potential emissions are less than the major source limits for regulated air pollutants and hazardous air pollutants as defined in 567—22.100(455B).

*a.* Definition. “Sprayed material” is material sprayed from spray equipment when used in the surface coating process in the spray booth, including but not limited to paint, solvents, and mixtures of paint and solvents.

*b.* Facilities which facilitywide spray one gallon per day or less of sprayed material are exempt from all other requirements in 567—Chapter 22, except that they must submit the certification in 22.8(1) “*e*” to the department and keep records of daily sprayed material use. The facility owner or operator must keep the records of daily sprayed material use for 18 months from the date to which the records apply. The owner or operator must also certify that the facility is in compliance with or otherwise exempt from the federal regulations specified in 22.8(1)“e.”

*c.* Facilities which facilitywide spray more than one gallon per day but never more than three gallons per day are exempt from all other requirements in 567—Chapter 22, except that they must submit the certification in 22.8(1) “*e*” to the department, keep records of daily sprayed material use, and vent emissions from a spray booth(s) through a stack(s) which is at least 22 feet tall, measured from ground level. The facility owner or operator must keep the records of daily sprayed material use for 18 months from the date to which the records apply. The owner or operator must also certify that the facility is in compliance with or otherwise exempt from the federal regulations specified in 22.8(1)“e.”

*d.* Facilities which facilitywide spray more than three gallons per day ~~must comply with all applicable statutes and rules~~ are not eligible to use the permit by rule for spray booths and must apply for a construction permit as required by subrules 22.1(1) and 22.1(3) unless otherwise exempt.

*e.* Notification letter.

(1) Facilities which claim to be permitted by provisions of this rule must submit to the department a written ~~statement as follows~~ notification letter, on forms provided by the department, certifying that the facility meets the following conditions:

~~“I certify that all paint booths at the facility and listed below are in compliance with all applicable requirements of 567 IAC 22.8(1) and all other applicable requirements, including but not limited to the allowable emission rate for painting and surface coating operations of 0.01 gr/scf of exhaust gas as specified in 567—subrule 23.4(13). I understand that this equipment shall be deemed permitted under the terms of 567 IAC 22.8(1) only if all applicable requirements of 567 IAC 22.8(1) are met. This certification is based on information and belief formed after reasonable inquiry; the statements and information in the document are true, accurate, and complete.”~~

1. All paint booths and associated equipment are in compliance with the provisions of subrule 22.8(1);

2. All paint booths and associated equipment are in compliance with all applicable requirements, including, but not limited to, the allowable particulate emission rate for painting and surface coating operations of 0.01 gr/scf of exhaust gas as specified in 567—subrule 23.4(13); and

3. All paint booths and associated equipment are in compliance with or otherwise exempt from the national emissions standards for hazardous air pollutants (NESHAP) for paint stripping and miscellaneous surface coating at area sources (40 CFR Part 63, Subpart HHHHHH).

(2) The certification must be signed by one of the following individuals.

~~(1)~~ 1. For corporations, a principal executive officer of at least the level of vice president, or a responsible official as defined at 567 IAC 22.100(455B).

~~(2)~~ 2. For partnerships, a general partner.

~~(3)~~ 3. For sole proprietorships, the proprietor.

~~(4)~~ 4. For municipal, state, county, or other public facilities, the principal executive officer or the ranking elected official.

ITEM 3. Amend subrule **23.1(2)**, introductory paragraph, as follows:

**23.1(2)** *New source performance standards.* The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~November 16, 2007, June 2, 2008,~~ are adopted by reference, except § 60.530 through § 60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 4. Adopt the following **new** paragraph **23.1(2)**“**zzz**”:

*zzz. Stationary spark ignition internal combustion engines.* These standards apply to each stationary spark ignition internal combustion engine whose construction, modification or reconstruction commenced after June 12, 2006. (Part 60, Subpart JJJJ)

ITEM 5. Amend subrule 23.1(4), introductory paragraph, as follows:

**23.1(4)** *Emission standards for hazardous air pollutants for source categories.* The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through ~~April 8, 2008, July 22, 2008,~~ are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded ( $F_{bio}$ ) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purposes of this subrule, “hazardous air pollutant” has the same meaning found in 567—22.100(455B). For the purposes of this subrule, a “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where

different criteria are employed. For the purposes of this subrule, an “area source” means any stationary source of hazardous air pollutants that is not a “major source” as defined in this subrule. Paragraph 23.1(4)“a,” general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below. The provisions of 40 CFR Part 60, Subparts A, B, Da, and HHHH for the Clean Air Mercury Rule (CAMR), are found at subrules 23.1(2) and 23.1(5) and in 567—Chapter 34.

ITEM 6. Amend paragraph **23.1(4)“cz”** as follows:

*cz. Emission standards for stationary reciprocating internal combustion engines.* These standards apply to new and existing major sources with stationary reciprocating internal combustion engines (RICE). These standards also apply to new and reconstructed RICE located at area sources. For purposes of these standards, stationary RICE means any reciprocating internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work and which is not mobile. (Part 63, Subpart ~~ZZZZ~~ as amended through April 20, 2006)

ITEM 7. Adopt the following **new** paragraphs **23.1(4)“eb,” “ec” and “eh”**:

*eb. Emission standards for hazardous air pollutants for gasoline distribution area sources: bulk terminals, bulk plants and pipeline facilities.* This standard applies to new and existing bulk gasoline terminals, pipeline breakout stations, pipeline pumping stations and bulk gasoline plants that are area sources for hazardous air pollutant emissions. (Part 63, Subpart BBBBBB)

*ec. Emission standards for hazardous air pollutants for area sources: gasoline dispensing facilities.* This standard applies to new and existing gasoline dispensing facilities (GDF) that are area sources for hazardous air pollutant emissions. The affected equipment includes each gasoline cargo tank during delivery of product to GDF and also includes each storage tank. The equipment used for refueling of motor vehicles is not covered under these standards. (Part 63, Subpart CCCCCC)

*eh. Emission standards for hazardous air pollutants for area sources: paint stripping and miscellaneous surface coating operations.* This standard applies to new or existing area sources of hazardous air pollutant emissions that engage in any of the following activities: (1) paint stripping operations that use methylene chloride (MeCl)-containing paint stripping formulations; (2) spray application of coatings to motor vehicles or mobile equipment; or (3) spray application of coatings to plastic or metal substrate with coatings that contain compounds of chromium (Cr), lead (Pb), manganese (Mn), nickel (Ni) or cadmium (Cd). (Part 63, Subpart HHHHHH)